

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
IP-Enabled Services	)	WC Docket No. 04-36
	)	
E911 Requirements for IP-Enabled Service Providers	)	WC Docket No. 05-196
	)	
Vox Communications Corporation	)	
Petition for Extension and Limited Waiver	)	

**PETITION FOR EXTENSION OF TIME AND LIMITED WAIVER**

Vox Communications Corporation (“Vox”), pursuant to Section 1.3 of the Commission’s Rules,<sup>1</sup> requests that the Commission grant it an extension of time to comply with and limited waiver of the obligations imposed on Vox pursuant to Commission Rules 9.5(b) adopted in the *First Report and Order* in the above-captioned proceedings.<sup>2</sup> As explained in detail below, Vox will be unable to comply fully with the requirements of the *VoIP E911 Order* for all of its customers by the November 28, 2005 deadline. Accordingly, Vox requests a seven-month extension of time and limited waiver in order to comply with those obligations.

**I. DESCRIPTION OF THE PETITIONER**

Vox is a wholesale and retail provider of advanced Internet software and hardware applications. Vox provides enhanced VoIP, data, and multimedia services to carriers, service

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<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, WC Docket Nos. 04-36 & 05-196, FCC 05-116 (released June 3, 2005) (“*VoIP E911 Order*”). Commission Rule 9.5 (b) and (c), 47 C.F.R. §§ 9.5(b) and (c), implementing the VoIP E911 Order are scheduled to take effect on November 28, 2005.

providers, commercial and residential customers nationwide. Vox currently provides VoIP service to approximately 250 retail customers. In connection with its retail service, Vox provides its customers a Vox adapter box that connects a customer's existing CPE to the customer's broadband Internet connection. Vox's service is portable; customers may use their adapters in any location where broadband access to the Internet is available. Customers also may request assignment of telephone numbers that are associated with their geographic location or from other local areas (i.e., non-native numbers). Vox also provides wholesale VoIP services to carriers and service providers. Based on its understanding of the definitions adopted in the *VoIP E911 Order*, Vox is a provider of interconnected Voice over Internet Protocol ("VoIP") services.<sup>3</sup>

Vox has taken a number of steps to comply with the Commission's VoIP E911 rules. As of the date of this letter, it has received affirmative acknowledgements as required by 47 C.F.R. § 9.5(e) from approximately 95% of its existing retail VoIP customers.<sup>4</sup> New retail customers are advised of the nature of the emergency services provided by Vox and are required to provide affirmative acknowledgement that they understand those services as part of the subscription process. Vox's wholesale customers are advised of and acknowledge the scope of Vox's emergency services in their service contracts. Vox also is in compliance with the registered location requirement of 47 C.F.R. § 9.5(d) and provides customers the ability to update their registered location information.

For reasons discussed in greater detail in Section III below, Vox is not currently in compliance with the requirements of 47 C.F.R. § 9.5(b) and (c) for the majority of its customers.

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<sup>3</sup> See 47 C.F.R. § 9.3.

<sup>4</sup> *Enforcement Bureau Provides Further Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning Enforcement of Subscriber Acknowledgement Requirement*, WC Docket Nos. 04-36 and 05-196, Public Notice, DA 05-2530 (rel. Sept. 27, 2005).

However, Vox will be in compliance with those rules for a number of its customers by December 31, 2005. In addition, Vox has contracted with HBF Group, Inc. (“HBF”) to deploy an E911 solution that complies with the Commission’s Rules. As a result, Vox expects to be able to provide limited 911 service to all of its customers by approximately December 31, 2005 and full E911 service by June 30, 2006.

## **II. SPECIFIC WAIVERS REQUESTED**

Vox respectfully requests a limited waiver allowing it a seven-month extension of time to implement the following requirements of the *VoIP E911 Order*:

- 1) The requirement to transmit all 911 calls, in all geographic regions served by the Wireline E911 Network, along with the ANI and the caller’s Registered Location for each call, to the PSAP, designated statewide default answering point, or appropriate local emergency authority.<sup>5</sup>
- 2) The requirement to route all 911 through the use of ANI and, if necessary, pseudo-ANI.<sup>6</sup>
- 3) The requirement to provide the Registered Location to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority from or through the appropriate automatic location information (ALI) database.<sup>7</sup>
- 4) The requirement that Vox not market its service or accept new customers in areas in which it cannot provide E911 service in compliance with the Commission’s rules.

## **III. STANDARD OF REVIEW**

Section 1.3 of the Commission’s Rules states that the Commission may waive its rules for good cause where the facts of a particular case make strict compliance inconsistent with the public interest and when the relief requested will not undermine the policy objective of the rule

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<sup>5</sup> See 47 C.F.R. § 9.5(b)(2).

<sup>6</sup> See 47 C.F.R. § 9.5(b)(3).

<sup>7</sup> See 47 C.F.R. § 9.5(b)(4).

in question.<sup>8</sup> To prevail, a petitioner must demonstrate that application of the challenged rule would be inequitable, unduly burdensome, or contrary to the public interest.<sup>9</sup>

The Commission's approach to requests for waivers in the wireless area is illustrative. Section 1.925(b)(3) of the Commission's Rules is comparable to Section 1.3 and provides that the Commission may grant a request for waiver if

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>10</sup>

In the wireless E911 context, the Commission has stated that technical infeasibility and delays beyond the control of the carrier, including the inability to obtain required products or services despite good faith efforts by a petitioner, is reason to grant a waiver.<sup>11</sup>

#### **IV. PETITIONER MEETS THE STANDARD FOR GRANTING A WAIVER**

##### **A. Unusual Factual Circumstances Justify the Requested Relief**

Vox is a national provider of VoIP services. Because its VoIP service is offered over the public Internet, Vox cannot practicably limit the geographic locations from which its customers might use the service. For that reason, Vox, unlike many VoIP providers, requires a nationwide

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<sup>8</sup> 47 C.F.R. § 1.3. See *Wait Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); see also *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

<sup>9</sup> *Wait Radio*, 418 F.2d at 1159.

<sup>10</sup> 47 C.F.R. § 1.925(b)(3).

<sup>11</sup> *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Phase II Compliance Deadlines for Tier III Carriers*, CC Docket No. 94-102, Order, FCC 03-79, released April 1, 2005 ("Wireless E911 Tier III Second Waiver Order") at P 10.

E911 solution in order to comply fully with the Commission's rules. As the Commission is aware, to date, such a comprehensive nationwide solution is not available.

Vox's situation is complicated by the differing compliance of its underlying providers. To provide its VoIP service, Vox obtains DID's from Global Crossing ("GX"), XO Communications ("XO"), and Broadvox, which it then assigns to customers. Customers who receive their DID's through GX, who currently represent approximately 1% of Vox's customers, will receive E911 service, through GX's solution, on November 28, 2005. Vox understands that GX's service is substantially in compliance with the Commission's E911 rules. However, GX's solution only supports DID's assigned by GX and does not support nomadic use of Vox's service or non-native numbers.

Another 20% of Vox's customers receive DID's provided by XO. Based on Vox's discussions with XO, it understands that XO currently does not have an E911 solution that complies with the Commission's rules. XO has advised Vox that a full E911 solution will be deployed by December 31, 2005. At that time, Vox customers who use XO DID's will have E911 service. Like the Global Crossing solution, however, XO's E911 service will support only DID's assigned by XO and, to Vox's knowledge, does not support nomadic use of Vox's service or non-native numbers.

Vox's remaining customers receive DID's provided by Broadvox. Vox understands that Broadvox is also working with HBF to provide an E911 solution. Therefore, Vox understands that its customers who use DID's provided by Broadvox will obtain E911 service on the implementation schedule discussed below.

In order to address its unique situation, Vox has entered into an agreement with HBF to provide a nationwide E911 solution in those locations and for those customers who will not

obtain E911 access from GX or XO. HBF's solution will be implemented in two stages. In its first stage, the service will provide nationwide access to emergency services via a 10-digit number. HBF's first generation solution will deliver the customer's call back number, location information and correct PSAP information from the emergency call; will support static and nomadic subscribers; will keep records of call history; and will allow digital recording of E911 calls. In the event an emergency call cannot be delivered directly to the appropriate answering point, the caller will be routed to a national call center with trained emergency operators. The call center will operate 24 hours a day, 7 days a week. HBF has advised Vox that this service will be available to Vox by December 31, 2005.

Vox has been advised by HBF that the second generation of HBF's service will provide nationwide E911 service that complies fully with the Commission's rules. HBF has advised that it is in the process of obtaining access to the selective routers that is necessary for delivery of 911 calls in accordance with the Commission's rules. Vox understands that this process is costly and time-consuming. It requires physical interconnection to over 650 selective routers owned by the ILECS as well as conversion of the call from IP to TDM. There are few carriers capable of meeting this requirement. HBF has advised that access is being achieved through contractual relationships with CLECs throughout the country. Vox has been advised by HBF that this process should be completed by June 30, 2006. Once it is complete, Vox will be able to provide E911 coverage in compliance with the Commission's rules.

Vox also has been advised by HBF that HBF is working to meet the ANI and registered location requirements, but that the short timeframe for implementation has made compliance difficult. Delivery of ANI and registered location information to PSAPs requires connection agreements with the ILECs, frame relay circuits to ALI databases, testing of links and data

exchange, and loading of contracts into the ALI databases. The circuit ordering timeframe is usually 4-6 weeks. Some of the smaller ILECs still do not have their VoIP ordering processes in place so no circuits have been ordered with that group. HBF is installing these circuits, but the 120-day timeframe from the FCC has not allowed enough time to negotiate interconnection agreements with the ILECs and then order the circuits.

In addition, the FCC has yet to name an interim administrator for these non-dialable numbers. Without further FCC guidance, it is nearly impossible to deploy services on a nationwide basis. Finally, this solution requires testing with over 6000 PSAPs to meet the deadline. This takes time as each PSAP must be tested with each contract. Again, the 120-day timeframe doesn't allow enough time to get interconnection agreements with each ILEC, provision circuits, create contract shell records, and then schedule/execute testing with 6000 PSAPs. Vox has been advised by HBF that this effort underway but it is time consuming.

Vox has shown its commitment to providing its customers E911 services. The Commission recognized in the *VoIP E911 Order* that the timeframe for requiring the deployment of an E911 solution was "aggressive."<sup>12</sup> This is particularly true for Vox. Its nationwide footprint, nomadic users, and diversity of numbering vendors have made deployment of an E911 solution in the 120-day period required by the Commission impossible. In addition, the industry-wide difficulties of implementing VoIP E911 have hindered Vox's ability to comply.

The Commission has stated that delays that are beyond a provider's control or the inability of a provider to obtain required products or services despite good faith efforts is

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<sup>12</sup> *VoIP E911 Order*, ¶ 37.

grounds to grant a waiver.<sup>13</sup> Vox has made good faith efforts to obtain an E911 solution that complies with the *VoIP E911 Order* and has made progress toward compliance, but will not be in full compliance by November 28. Vox respectfully submits that the unusual factual circumstances it faces justify the limited relief that Vox seeks.

**B. The Relief That Vox Seeks is in the Public Interest**

Strict adherence to the requirements of the *VoIP E911 Order* would be inconsistent with the public interest with respect to Vox. Vox is a small provider of VoIP services and faces substantial financial, technical, and practical obstacles to compliance. Nevertheless, the company has made considerable progress toward compliance and has a plan in place that will enable it to comply fully. Vox has taken steps to ensure that its customers have access to emergency services before a complete solution is in place.

Demanding strict compliance with the *VoIP E911 Order* will not advance the Commission's goals and will serve only to punish Vox for its efforts. Strict enforcement could result in the suspension of service to Vox's customers and prohibit Vox from accepting new customers. The result of such action would likely be that Vox would be less able to comply with the *VoIP E911 Order*. Its customers will remain without E911 service, as Vox will not have adequate resources to deploy a ubiquitous E911 solution, and Vox's ability to compete will be weakened. Such a result would not serve the public interest. Therefore, a limited waiver of the requirements of the *VoIP E911 Order* is necessary and is in the public interest.

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<sup>13</sup> *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Phase II Compliance Deadlines for Tier III Carriers*, CC Docket No. 94-102, Order, FCC 05-79, released April 1, 2005 ("*Wireless E911 Tier III Second Waiver Order*") at P 10.



## **1. Vox's Plan to Achieve Full Compliance**

As discussed above, Vox has taken steps to achieve full compliance with the Commission's rules within a short period. By December 31, 2005, those Vox customers that are served by numbers provided by GX and XO will have E911 service. Vox's remaining customers will have access to emergency services by dialing a 10-digit number. HBF has advised that the second generation of its service, which will comply fully with the Commission's rules, will be rolled out as HBF is able to finalize the necessary contractual relationships and put required facilities in place. HBF has advised that it expects to complete that process within approximately six months. At that time, HBF has advised that Vox will have nationwide E911 coverage.

## **2. The Relief Vox Seeks is in the Public Interest**

In light of the circumstances described above, grant of a limited waiver and extension of time to Vox is in the public interest. Vox has made good faith efforts to comply with the requirements of the *VoIP E911 Order*. It has met the affirmative acknowledgement and registered location requirements for nearly all of its customers. In addition, Vox is working closely with its numbering vendors and HBF to ensure that all of Vox's VoIP customers have full E911 access within a reasonable amount of time.

By demanding full compliance with the *VoIP E911 Order* by November 28, the Commission will make it more difficult for Vox to come into full compliance. Strict adherence to the *VoIP E911 Order* would require Vox to discontinue its services to many customers and to cease marketing its service and accepting new customers.<sup>14</sup> These actions would deny existing

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<sup>14</sup> While the Enforcement Bureau has indicated that it is not "requiring" providers to disconnect current customers, the full Commission has not addressed this issue, Commission Rule 9.5 remains fully in effect, and even the Bureau has made no commitment not to pursue enforcement actions against providers that continue to provide service. In particular, it is unclear whether VoIP providers can continue to serve existing customers who change their registered location after November 28. Thus, (cont'd)

customers access to Vox's VoIP services and destroy Vox's relationships with those customers. The ability of Vox to attract new customers also would be severely hampered. The loss of current customers and the inability to accept new customers will deprive Vox of the ability to maintain or expand its user base and revenues. This would cause Vox extreme economic hardship. More important for purposes of this Petition, the loss of those revenues would limit Vox's ability to pay for the deployment of E911 service and make it less likely that Vox will be able to comply in a timely manner with the requirements of the *VoIP E911 Order*. Such a result would not be not in the public interest.

**C. Grant of the Petition will not Undermine the Policy Objective of the *VoIP E911 Order***

As discussed above, Vox has worked, and is continuing to work, to implement an E911 solution that meets the requirements of the *VoIP E911 Order*. Grant of the Petition will not undermine the policy goal that customers of interconnected VoIP providers have access to emergency services. Vox is requesting a limited extension and waiver of the Commission's rules to give it the time and resources necessary to meet those requirements for all of its customers. The Commission has often granted waivers in similar settings—for example, wireless E911 and CALEA—in spite of the significant public interests at stake. The Commission did so because it recognized that limited waivers do not undermine the objections of those rules. The situation here is no different. Vox's limited request for relief does not impair the public safety goals that underlie the Commission's new rules. Accordingly, the Commission should grant the Petition.

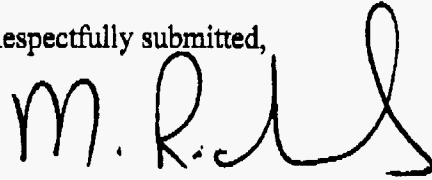
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the fact remains that non-compliant VoIP providers are in the untenable position of courting an enforcement action if they do continue to provide service to existing customers.

V. **CONCLUSION**

For the reasons set forth above, Vox respectfully submits that grant of this Petition for extension of time and limited waiver serves the public interest.

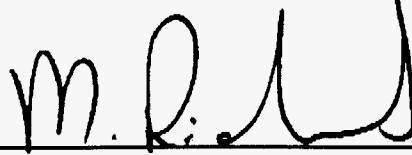
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Richards', with a stylized, flowing script.

Mark Richards  
President and CIO  
Vox Communications Corporation

**CERTIFICATION**

I, Mark Richards, state that I am President, of Vox Communications Corporation; that I am authorized to submit the forgoing Petition for Extension of Time and Limited Waiver on behalf of Vox Communications Corporation; that the Petition was prepared under my direction and supervision; and I declare under penalty of perjury that the Report is true and correct to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read 'M. Richards', is written over a horizontal line.

Name: Mark Richards

Title: President and CIO  
Vox Communications Corporation